

Notice of Agency Waiver Amendment

AGENCY: Department of Health and Human Services, MaineCare Services

RULE TITLE OR SUBJECT: Chapter 101, MaineCare Benefits Manual, Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder.

WAIVER: ME.0159, Intellectual Disabilities or Autism Spectrum Disorder Waiver

CONCISE SUMMARY: The Department is planning to submit an amendment to the Intellectual Disabilities or Autism Spectrum Disorder Home and Community Based Services (HSBS) 1915(c) waiver application, known in Maine as Section 21, Home and Community Benefits for Members with Intellectual Disabilities or Autism Spectrum Disorder. Some of the proposed appendix updates contained in the waiver amendment:

General:

- Updated and revised the Brief Waiver Description for clarity and readability.
- Updated and revised *Home and Community-Based Settings Waiver Transition Plan* regarding Maine's Final Statewide Transition Plan for compliance with the HCBS Settings rule.
- Ensured compliance with MaineCare Benefits Manual Ch, I, Section 6, Global HCBS Waiver Person-Centered Planning and Settings Rule.
- Where applicable, updated and revised language to align and create consistency with Maine's other 1915(c) HCBS waivers - ME.0995 (MBM Section 20), ME.0467 (MBM Section 29), and ME.1082 (MBM Section 18).

Appendix A Waiver Administration and Operation:

- Updated and revised information about agencies/entities with which the Department contracts.

Appendix B Participant Access and Eligibility:

- Strengthened safeguards for waiver Participants by adding a Request for Exceptions process to ensure that Participants receive adequate and appropriate services and supports in the most integrated setting to meet their needs, consistent with the Americans with Disabilities Act (ADA) and with health and safety requirements.
- Updated and revised number of individuals served in B-3 a., *Unduplicated Participants Served* and B-3 b., *Number of Participants Served at any Point in Time*, for accuracy and to align with historical trends.

Appendix C Participant Services:

- Updated, expanded, and/or clarified, where applicable, the descriptions, qualifications, and limits within *Service Specifications* (C-1/C-3).
- Strengthened safeguards regarding the hiring of employees by including requirements that providers perform background checks with Adult and Child Protective Services and clarified provisions for the same within *Criminal History and/or Background Investigations* (C-2).
- Updated and revised requirements to permit provider agencies to hire Direct Support Professionals (DSPs) who are seventeen (17) years of age.
- Updated and revised requirements for enrollment and regular re-enrollment responsibilities for providers of HCBS waiver services, consistent with MaineCare regulations and statutory requirements.
- Updated and revised limits on maximum dollar amounts for certain HCBS waiver services where applicable.

Appendix D Participant-Centered Planning and Service Delivery:

- Updated and revised requirements that providers comply with Maine’s Global HCBS Waiver Person-Centered Planning and Settings Rule (MBM, Ch. I, Section 6).
- Updated and revised the Person-Centered Service Planning (PCSP) planning process consistent with MBM, Ch. I, Section 6.

Appendix F Participant Rights:

- Updated and revised *Opportunity to Request a Fair Hearing* and *State Grievance/Complaint System* for clarity and readability.

Appendix G Participant Safeguards:

- Updated and revised *Response to Critical Events or Incidents, Safeguards Concerning Restraints and Restrictive Interventions*, and *Medication Management and Administration* for clarity, readability, and consistency with ME.0467 (MBM Section 29) where applicable.
- Updated and revised *Quality Improvement: Health and Welfare*, Sub-assurance a., Performance Measures #3, #5, #7, and #8 for consistency with data collection and reporting practices.
- Removed *Quality Improvement: Health and Welfare*, Sub-assurance a., Performance Measure #6 as inconsistent with data collection and reporting practices.
- Updated and revised *Quality Improvement: Health and Welfare*, Sub-assurance b., Performance Measures # 2 and #3 for consistency with data collection and reporting practices.

Appendix H Quality Improvement Strategy:

- Updated and revised the *System Improvements* description.
- Expanded quality assurance activities by adding a Plan of Corrective Action (“POCA”) process to ensure providers comply with service requirements, have sufficient clinical and administrative capability to carry out the intent of the service, and have taken steps to assure the safety, quality, and accessibility of the service.
- Updated and revised the description of the process for monitoring and analyzing the effectiveness of system design changes for clarity and readability.

Appendix I Financial Accountability:

- Updated and revised *Financial Integrity and Accountability* for clarity and consistency with Maine’s other 1915(c) waivers.
- Substantially revised *Rates, Billing and Claims* to reflect recently passed State legislation providing annual Cost of Living Adjustments (COLA) and requiring the labor components of rates to equal at least 125% of the State minimum wage for essential workers.

Appendix J Cost Neutrality Demonstration:

- Updated and revised *Cost Neutrality and Derivation of Estimates* for the final two years of this waiver cycle (through June 30, 2025).

Please see the accompanying draft application for a complete list of all proposed changes included in the amendment.

DHHS is accepting comments through Sunday, May 14, 2023. Any interested party may obtain a copy of the waiver application by going to the website noted below or at any regional Office for Family Independence (a list of the offices and locations can be found at this link <http://www.maine.gov/dhhs/ofi/offices/index.html>). A printed copy may be obtained by calling Lisa Weaver at (207) 624-4050 or emailing lisa.weaver@maine.gov.

See <http://www.maine.gov/dhhs/oms/rules/index.shtml> for waiver amendment and to submit comments.

STATUTORY AUTHORITY: CFR §441.304

DEADLINE FOR COMMENTS: Comments must be received by 11:59 pm, May 14, 2023.

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